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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 2000

Addendum

UZBEKISTAN*

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[29 November 2000]

* The initial report submitted by the Government of Uzbekistan is contained in document CAT/C/32/Add.3; for its consideration by the Committee, see documents CAT/C/SR.405, 408 and 409/Add.1 and the Official Records of the General Assembly, Fifty-fifth session, Supplement No. 44 (A/55/44, paras. 76-81).

The annexes to the report submitted by the Government of Uzbekistan may be consulted in the Secretariat's file.

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I. INTRODUCTION

1. The Republic of Uzbekistan, which has embarked upon the path of building a democratic State based on the rule of law, attaches great importance to compliance with its international obligations. Particular attention is being devoted to meeting international standards and principles in the sphere of human rights and freedoms. The Government is carrying out purposeful measures aimed at the radical transformation of all areas of the country's social, economic, political, legal, cultural and spiritual life.

2. The liberalization and democratization of all spheres of social life is a priority in the reform of Uzbek society. Upholding the lawful interests of the individual and protecting and supporting human rights and freedoms are central to the process of judicial and legal reform now being carried out in stages.

3. The basic institutions of a parliamentary democracy have been established and are operating in Uzbekistan. They include the Constitutional Court, the Office of the Parliamentary Commissioner for Human Rights (Ombudsman), the National Centre for Human Rights of the Republic of Uzbekistan and the Institute for Monitoring Current Legislation, and non-governmental human rights organizations: the Bar and Judges' Associations, the Legal Aid Society and the Committee for the Protection of the Rights of the Individual. There are now more than 2,500 non-governmental non-profit organizations in operation in Uzbekistan.

4. The Republic of Uzbekistan is a signatory to more than 600 bilateral and multilateral treaties, including more than 50 international treaties in the sphere of human rights.

5. On 31 August 1995, the Parliament of Uzbekistan ratified the Convention against Torture and Other Inhuman or Degrading Treatment or Punishment of 10 December 1984. With the assistance and cooperation of various governmental and non-governmental organizations, the National Centre for Human Rights of the Republic of Uzbekistan prepared the national report on the implementation of the basic provisions of the Convention. The initial report was considered by the Committee against Torture in Geneva on 17 November 1999.

6. The rules stipulate that reports must be updated and submitted annually. The present national report has been prepared in accordance with this provision: it covers the period from August 1999 to 15 September 2000. Documents received from the following organizations were used in its preparation: the Ministry of Internal Affairs, the Ministry of Justice, the Procurator's Office, the Department of National Security, the Supreme Court, the Constitutional Court, the Commissioner for Human Rights of the Oliy Majlis, the Institute for Monitoring Current Legislation reporting to the Oliy Majlis and the Bar Association.

II. PROHIBITION UNDER UZBEK LAW OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (art. 1)

7. Under article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or

a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. The provisions of that article are implemented in the Constitution and legislative acts of the Republic of Uzbekistan.

8. The use of torture and other cruel, inhuman or degrading treatment or punishment is prohibited by Uzbekistan's Constitution and legislation. For example, under article 25 of the Constitution, "Everyone shall have the right of freedom and personal inviolability. No one may be detained or held in custody except as provided for by law". Article 26, paragraph 2, is more specific: "No one may be subjected to torture, violence or other cruel or degrading treatment".

9. Special rules prohibiting unlawful methods of conducting an investigation and the use of various forms of violence are contained in the Criminal Code, the Code of Criminal Procedure and the Code for the Execution of Criminal Penalties, as well as a number of other Uzbek laws.

10. In addition to legislative safeguards, institutional machinery for the protection of human rights has been established and is operating in Uzbekistan.

11. Two entities constitute the institutional machinery for the protection of human rights in the sphere of criminal justice:

(i) The system of bodies for the defence of legal rights;

(ii) The system of institutions for the extrajudicial protection of the rights of the individual.

12. Judicial bodies, the Procurator's Office, the Ministry of Internal Affairs and the National Security Services of the Republic of Uzbekistan make up the system of State bodies ensuring protection of human rights.

13. The system of institutions for the extrajudicial protection of the rights of the individual comprises: the Ombudsman, the National Centre for Human Rights of the Republic of Uzbekistan, the Institute for Monitoring Current Legislation reporting to the Oliy Majlis and non-governmental organizations for the protection of human rights.

14. Under the Republic of Uzbekistan Act on the Commissioner for Human Rights of the Oliy Majlis (Ombudsman) of 24 April 1997, the Ombudsman's functions include: parliamentary monitoring of the implementation of human rights laws, both on his own initiative and in response to citizens' requests concerning violations of their human rights. The Commissioner is the official who verifies that State authorities, self-government authorities and officials genuinely comply with current human rights legislation.

15. The Commissioner is the Chairman of the Commission on Observance of Citizens' Constitutional Rights and Freedoms, set up by the Decree of the Oliy Majlis of 6 May 1995.

16. For the purposes of parliamentary scrutiny of compliance with human rights legislation, the Ombudsman is empowered to examine citizens' complaints and requests regarding violations of their human rights and to draw up conclusions and recommendations for ending violations and restoring those rights. Regional Ombudsman's offices were opened in all wiloyats in the country in 1999.

17. The National Centre for Human Rights of the Republic of Uzbekistan was established pursuant to a Presidential Decree issued on 31 October 1996. The Centre was set up to coordinate the activities of all governmental and non-governmental organizations associated with the protection of human rights. The Centre carries out research on various aspects of the protection and realization of human rights at the national and international levels; organizes study programmes, seminars, lecture courses and educational travel; provides assistance in the preparation and realization of study and training programmes on human rights; distributes and disseminates information on human rights; develops technical cooperation and information links with international centres or organizations in the sphere of human rights; and provides in situ coordination of the activities of international agencies providing assistance on issues of democratization and the defence of citizens' rights and freedoms.

18. The national reports of the Republic of Uzbekistan on progress in fulfilling the international obligations assumed by Uzbekistan in the field of human rights are prepared at the National Centre.

19. The Centre operates two consultation centres - on social relations and on the rights of the child. Complaints are handled by experienced judges and lawyers. The social relations centre is a structural subdivision of the Centre established to ensure effective protection of citizens' rights, freedoms and lawful interests.

20. The Centre's main functions are to receive citizens, to monitor the effectiveness of national legislation relating to the protection of human rights and freedoms, to explain the rights and obligations of citizens, the manner in which the State upholds them and the procedure for their legal protection, and to provide assistance in eliminating violations of civil rights; to study and publicize cases of violations of human rights; and to draw up recommendations for their elimination.

21. The Institute for Monitoring Current Legislation reporting to Oliy Majlis was established by a resolution of the Oliy Majlis of the Republic of Uzbekistan of 3 December 1996. It is a scientific research establishment whose basic functions include: studying current legislation and the extent to which it meets international standards and requirements in the field of human rights, preparing proposals for the implementation in Uzbekistan's national legislation of international legal standards in the field of human rights, studying and publicizing practice in the application of the law to encourage and protect human rights, drawing up recommendations on the improvement of national legislation, carrying out scientific expert consideration of draft laws, including consideration with the assistance of foreign experts and institutes, and preparing proposals on plans and programmes for new legislation.

22. Since they retain relative independence, the specialized institutions dealing with issues relating to the protection of human rights in Uzbekistan are free to make an appreciable contribution to strengthening the protection of civil rights and shaping a legal culture in society in the spirit of respect for human rights and fundamental freedoms.

Punishment and sentencing under Uzbek law

23. Article 42 of the Criminal Code of the Republic of Uzbekistan states that "punishment is a coercive measure applied by the State pursuant to a court verdict against a person convicted of an offence, and consists of the deprivation or limitation of certain rights and freedoms of the convicted persons as provided for by law. Punishment is used for correction of offenders, prevention of any continuation of the criminal activity and prevention of further offences both by the convicted person and by other persons".

24. Under article 43 of the Code, "Persons convicted of an offence may be subjected to the following main punishments:

A fine;

Deprivation of a particular right;

Corrective labour;

Service disbarment;

Detention;

Short-term rigorous imprisonment;

Deprivation of liberty;

The death penalty;

and the following additional punishments may be applied:

Disbarment from holding a military or special rank, confiscation of property."

25. There is no provision in Uzbek law for corporal punishment.

26. Up to 29 August 1998, the death penalty, as the supreme form of punishment, was sanctioned in 13 articles of the Criminal Code for the following offences:

Article 97 (2) (premeditated murder with aggravating circumstances);

Article 118 (4) (rape);

Article 119 (4) (gratification of unnatural sexual desires by force);

Article 151 (aggression);

Article 152 (breach of the laws and customs of war);

Article 153 (genocide);

Article 155 (terrorism);

Article 157 (1) (treason);

Article 158 (1) (attempt on the life of the President of the Republic of Uzbekistan);

Article 160 (1) (espionage);

Article 242 (1) (organization of a criminal association);

Article 246 (2) (smuggling);

Article 273 (5) (unlawful sale of narcotics or psychotropic substances).

27. As a result of the implementation of international legal standards through domestic law and the vigorous human rights campaigns of extrajudicial protection bodies such as the National Centre for Human Rights of the Republic of Uzbekistan, the Ombudsman and NGOs, the Oliy Majlis passed the Act on Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan of 29 August 1998. The Act stipulates that the following five crimes are no longer capital offences:

Article 119 (4) (gratification of unnatural sexual desires by force);

Article 152 (violation of the rules and customs of war);

Article 158 (1) (attempt on the life of the President of the Republic of Uzbekistan);

Article 160 (1) (espionage);

Article 246 (2) (smuggling).

28. The death penalty is currently applicable to crimes listed in eight articles of the Criminal Code.

29. The criminal legislation of the Republic of Uzbekistan, which is based on principles of justice and humaneness, does not provide for capital punishment for women or persons who have committed crimes under the age of 18.

III. LEGISLATIVE, ADMINISTRATIVE AND JUDICIAL MEASURES TO PREVENT TORTURE (art. 2)

A. Legal safeguards against torture and violation of civil rights in the justice system

30. The system of legal safeguards comprises rules contained in:

The Constitution (arts. 18-48);

The Criminal Code (arts. 7, 8, 103, 110, 141, 205, 206, 230, 301);

The Code of Criminal Procedure (arts. 1-3, 11, 17, 22);

The Administrative Liability Code (arts. 15, 32, 43);

The Code for the Execution of Criminal Penalties (art. 4).

31. In addition to these Codes, the following Acts contain legislative guarantees: the Citizens' Appeals Act, the Procedure for Court Complaints against Decisions and Acts Violating Citizens' Rights and Freedoms Act, the Office of the Procurator Act, the Judiciary Act and the Bar Act.

32. The system is supplemented by a number of legally binding regulatory instruments:

(i) Decrees and Ordinances of the President of the Republic of Uzbekistan (for example, the Presidential Decree of 10 October 1998 on the establishment of commissions to evaluate the work of senior officials in internal affairs bodies, and the Presidential Decree of 14 August 2000 on improving the judicial system of the Republic of Uzbekistan).

(ii) Decisions of the Supreme Court of the Republic of Uzbekistan in plenary session (Decision No. 2 of 2 March 1997 on court judgements and Decision No. 12 of 2 August 1997 on observance by the courts of procedural law in criminal proceedings at first instance);

(iii) Departmental regulations (Ministry of Internal Affairs, National Security Service, Procurators' Office): Order No. 6 of the Procurator-General of the Republic of Uzbekistan of 13 July 1993 on enhancing the effectiveness of procuratorial supervision of compliance with the law in places of pre-trial detention, or for the execution of court sentences and other coercive measures, Instruction No. 44 of the Ministry of Internal Affairs of 18 February 1996 and several others.

33. At the third meeting of the second session of the Oliy Majlis held in Tashkent on 30 August 2000, a new version of the Judiciary Act was considered in first reading. The new version proposes to strengthen the role of the judiciary, make it genuinely independent, and build a judicial system based on the principle of specialization. The reform provides for courts to be specialized, thus enabling genuine protection of citizens' rights and freedoms.

B. Administrative measures to suppress torture and violations of the rule of law

34. The Government of Uzbekistan is working hard to preserve and adhere to principles of the rule of law in the justice system. In particular, articles 15, 32 and 43 of the Administrative Liability Code lay down the circumstances in which liability of officials for administrative offences (in particular, violation of the law concerning citizens' appeals) arises.

35. On 31 March 1999 the Ministry of Justice issued Order No. 33 on issues relating to the organization and improvement of international relations by the Ministry of Justice. Under the Order, measures will be taken to provide judicial bodies with the necessary practical documentation on bringing national legislation into line with the requirements of international legal instruments.

36. Aware of their responsibility before the world community to comply with human rights agreements that have been ratified, Uzbekistan's law-enforcement agencies coordinate their work in this field. For example, on the initiative of the Procurator's Office, the heads of law-enforcement agencies (the Procurator's Office, the Supreme Court, the National Security Service, the Ministry of Internal Affairs, the Ministry of Justice, and the State Customs and Tax Committees), on the one hand, and the Ombudsman, the National Centre for Human Rights of the Republic of Uzbekistan and the "Makhallya" charitable foundation, on the other, set up the Coordinating Council of Law-Enforcement Authorities of the Republic of Uzbekistan (17 April 1997).

37. According to information received from the Ministry of Internal Affairs, work sessions on the social and political training of staff were introduced in all divisions of internal affairs bodies by Ministry of Internal Affairs Instruction No. 212 of 19 October 1998, with the aim of increasing the skills of those working at all levels in internal affairs bodies and instilling in them a desire to abide precisely and strictly by the law. Instruction No. 242 of 24 June 1993 introduced the practice of weekly "Marifat" ("Education") work sessions in all departments of internal affairs bodies. At these work sessions, staff are informed of orders and instructions issued by internal affairs bodies, arrangements for maintaining public order and enhancing the culture of law, and the main features of social, economic and democratic reforms in Uzbekistan. The work sessions take the form of lectures, discussions and open seminars. In addition, senior staff of internal affairs bodies are required to prevent infringements of the law and to work with their staff.

38. A special inspectorate has been established within the Ministry of Internal Affairs to prevent any illegal methods of conducting inquiries and investigations, infringements of legislative rules or whitewashing by internal affairs bodies, as well as to protect staff against unlawful infringements and actions, prevent violations of the law, corruption and other service-related offences in internal affairs bodies, and conduct periodical assessment of officials of internal affairs bodies.

39. Article 93 of the Constitution empowers the President to grant amnesties. Under the Presidential Decree on Amnesty of 30 April 1999, 23,626 citizens were released from places of detention, including 17,648 from institutions for the execution of punishments, while the sentences of 26,504 citizens, of whom 25,707 had been sentenced to varying terms of imprisonment, were reduced. The Decree granted amnesty to 2,200 aliens and stateless persons and halted proceedings in 945 criminal cases, leading to the acquittal of 147 persons. As part of the implementation of the Presidential Decree of 30 April 1999 on an amnesty in connection with the declaration of 9 May as a Day of Remembrance and Homage, more than 4,500 persons were released from custody.

40. Under the Presidential Decree on an amnesty in connection with the ninth anniversary of the proclamation of the independence of the Republic of Uzbekistan, the following convicted persons are having their custodial and non-custodial sentences lifted:

Participants in the Second World War and persons of similar status, and persons who participated in eliminating the consequences of the disaster at the Chernobyl nuclear power plant;

Women; men aged over 60; persons who committed offences when minors; class 1 and class 2 invalids;

Foreign nationals; persons sentenced to deprivation of liberty for up to three years or to non-custodial punishments, as well as persons convicted of offences committed through negligence;

Persons sentenced for the first time to deprivation of liberty for up to six years who have served not less than a quarter of their term;

Persons who have less than one year of a custodial sentence remaining to serve on the day of issue of the Decree;

Persons sentenced for the first time to deprivation of liberty for up to10 years who have served not less than half of their term;

Persons who, on the day of issue of the Decree, are eligible for release on parole or to have their sentence reduced.

41. The Decree also stipulates that persons sentenced to deprivation of liberty for up to 10 years who have served not less than one third of their term are to be transferred to open prisons.

42. The Decree provides for the cessation of all investigative proceedings and cases not heard by the courts where the offences do not represent a grave public danger.

43. For those persons who cannot be released under the Decree, it provides for a reduction in the unserved portion of their sentences: (a) by one third in the case of persons sentenced to deprivation of liberty for up to 10 years for premeditated crimes; (b) by one quarter in the case of persons sentenced to deprivation of liberty for more than 10 years for premeditated crimes.

44. The Decree does not apply to:

Persons who have committed offences against the constitutional order of the Republic of Uzbekistan;

Members of terrorist, extremist and other unlawful organizations and criminal associations;

Persons convicted of incitement to national or racial hatred and other activities contravening public security (Criminal Code, arts. 150-163, 216, 216-1, 216-2, 242, 244, 244-1 and 244-2);

Convicted persons who have systematically breached the rules in serving their sentence and persons pardoned or amnestied earlier who have committed another premeditated offence.

45. The following are not being released:

Women who have committed premeditated murder with aggravating circumstances (Criminal Code, art. 97 (2)) or robbery with violence (Criminal Code, art. 164 (4));

Persons who have committed offences as part of an organized criminal gang (except for persons convicted under article 167 (4a and 4c) of the Criminal Code) and those convicted for particularly serious crimes, as well as those involved in illegal drug trafficking (Criminal Code, art. 2709 (3), art. 271 (3), arts. 272 and 273) and particularly dangerous recidivists;

Persons involved in illegal arms trafficking (Criminal code, art. 247 (2.3), art. 248 (2.3)).

46. In accordance with the requirements of article 134 of the Code of Criminal Procedure, conditions have been created in a number of penal institutions to enable the accommodation and movement of convicted persons who are permitted free movement without escort or guard.

47. In accordance with article 126 of the Code for the Execution of Criminal Penalties, supplementary incentive measures have begun to be applied to convicted persons in young offenders' institutions. In particular, offenders have been granted the opportunity to see their relatives outside the premises of the institution up to 8 p.m. In accordance with Cabinet of Ministers Decision No. 113-99, an official post of psychologist has been established in every penal establishment, in order to enhance the effectiveness of educational activities, adaptation to social life and psychological preparation for release. In accordance with a government decision, 7,747 persons granted amnesty have been given social and domestic help. In addition, material assistance amounting to 26.8 million som has been provided to 4,734 persons released from prison. In order to enhance the social adaptation of those released, the crime prevention services of the Ministry of Internal Affairs, together with local authorities, public organizations and special commissions in khokim's offices, have introduced measures for the social adaptation of persons who have served their sentences.

48. The Presidential Decree on dropping charges against citizens of Uzbekistan who have erroneously become members of terrorist groups was issued on 6 September 2000. It provides for charges to be dropped against persons who, under the influence of various extremist tendencies, went abroad and joined terrorist groups but have not besmirched themselves with blood, have felt remorse for what they have done and acknowledged their guilt. As stated in the Decree, which was "guided by humane feelings", it was issued "to give a second chance to persons who have erroneously become members of terrorist groups situated in the territories of States adjacent to Uzbekistan, but who have not committed serious crimes and intend to return to the fatherland and their relatives, to revert to a peaceful life, and to prevent their being ruined by their error".

C. Judicial protection against torture and cruel treatment

49. The competence of the courts in this field is established by the Courts Act of 2 September 1993. Article 4 of this Act states that "the courts of the Republic of Uzbekistan are intended to guarantee the observance of citizens' rights and freedoms proclaimed by the Constitution and other statutes of the Republic of Uzbekistan and international human rights covenants". The work of the courts is based on the universal principles of justice enshrined in the law, namely the administration of justice by the courts alone, equality before the law, transparency and openness of court proceedings, and the right to legal defence. Article 9, paragraph 3, of the Act stipulates that "No one may be subjected to torture, violence or other cruel and degrading treatment".

50. In addition to providing direct protection to defendants in criminal proceedings, the courts play an active role in preventing torture and cruel or inhuman treatment during pre-trial investigations and court hearings.

51. According to the rules of Uzbek criminal procedure, "persons conducting an initial inquiry or a pre-trial investigation, as well as procurators and judges, must ensure that information uncovered during the investigation or judicial proceedings concerning the private life of a suspect, a person charged with an offence, a defendant, a victim or other person is not

divulged. Accordingly, restrictions shall be placed on the number of participants in investigative or judicial proceedings during which information of this nature may be revealed and such persons shall be cautioned, on pain of criminal liability, against divulging it". Law-enforcement officers may be held criminally liable for breaches of these rules under the criminal laws of the Republic of Uzbekistan.

52. It should be noted that significant measures have been adopted in Uzbekistan in recent years to achieve genuine reform both of the criminal law and of the judicial system.

53. Great importance in the process of reform of the justice system is attached to enhancing the role of the courts in ensuring justice. Plenary Decision No. 2 of the Supreme Court of 2 May 1997 states, for example, in paragraph 6 that "any evidence obtained unlawfully shall have no legal validity and cannot form the basis of a judgement".

54. One of the most important tasks in ensuring justice is strict compliance with legal requirements in handing down criminal sentences, since fair sentencing in itself represents a guarantee of the development of democratic procedures in the defence of human rights. It was for this reason that fair sentencing was discussed in plenary session by the Supreme Court of the Republic of Uzbekistan, which adopted the following Decisions in the matter: No. 16 of 19 July 1996 on the practice of criminal sentencing, No. 41 of 20 December 1996 on practice in the application of the law guaranteeing the right to a defence, No. 2 of 2 May 1997 on court judgements, No. 11 of 14 May 1999 on certain issues arising in court practice regarding the application of criminal punishments, No. 17 of 24 September 1999 on the implementation by the courts of plenary Decision No. 41 of 20 December 1996 of the Supreme Court of the Republic of Uzbekistan on practice in the application of the law guaranteeing the right to a defence, No. 18 of 24 December 1999 on court practice in cases involving bribery, No. 7 of 28 April 2000 on certain matters relating to the application of the law on compensation for moral harm, and No. 8 of 28 April 2000 on court practice in cases involving the unlawful acquisition and sale of foreign currency.

55. On 19 July 1999 the Supreme Court, in plenary session, examined practice in court hearings of complaints regarding decisions and acts violating citizens' rights and freedoms, and drew the attention of courts to the fact that, under article 44 of the Constitution and articles 1 and 3 of the Complaints against Decisions and Acts Violating Citizens' Rights and Freedoms Act, complaints may be lodged in court against any acts or decisions of State bodies, enterprises, establishments, organizations, public associations and self-governing citizens' or officials' bodies, except acts or decisions the investigation of which falls by law within the exclusive competence of the Constitutional Court of the Republic of Uzbekistan or in respect of which another judicial complaint procedure is provided for.

56. The Supreme Court's Plenary Decision of 20 December 1996 on practice in the application of the law guaranteeing the right to a defence laid particular emphasis on the fact that a conviction may not be based on assumptions or evidence obtained by unlawful means.

57. The Supreme Court's Plenary Decision No. 7 of 30 April 1999 made the following additions to Plenary Decision No. 12 of 2 August 1997 on observance by the courts of procedural law in criminal proceedings at first instance:

The following subparagraphs were added to paragraph 1 of the Decision:

"To inform courts of serious violations in bringing criminal cases to court and to require them to verify the correctness of the preventive measures applied to the person charged in each case, as stems directly from the requirements of article 396 of the Code of Criminal Procedure of the Republic of Uzbekistan.

"To explain to investigative bodies and courts that bail in cash or valuables paid into the deposit account of the investigative body or court, and provided for in article 249 of the Code of Criminal Procedure as a basis for the adoption of preventive measures, is an effective means of enabling the person charged or the defendant to fulfil the obligations incumbent on him without isolating him from society. In the investigation or court proceedings, therefore, the investigative body or court must explain to the person charged or defendant, his relatives and other physical or legal persons their right to post bail."

58. After considering the implementation by the courts of its Plenary Decision of 20 December 1996 on practice in the application of the law guaranteeing the right to a defence, the plenary session of the Supreme Court noted that the adoption of that Decision had enhanced democratization in criminal court procedure and strengthened the defence of civil rights.

59. At the same time, the plenary session of the Supreme Court found that in many cases investigative bodies and courts are underestimating the importance of the requirements of the law of criminal procedure concerning the right of everyone to a defence and the adversarial principle in court proceedings, which ensures a comprehensive examination of the facts of the case and an elucidation of evidence for and against the person charged or defendant - and in the final analysis an objective exposure of the actual circumstances of each case.

60. Judges are not showing the necessary severity in assessing these unlawful actions and do not always take a critical attitude to confessions by suspects made without the presence of a lawyer, despite the Supreme Court's pointing out that evidence acquired unlawfully has no legal validity and must consequently be rejected by the court.

61. Violations of the principle of the equal rights of participants in court proceedings are still being tolerated, though the parties have equal opportunities to present evidence, participate in its examination, petition the court, etc.

62. To eliminate these shortcomings, the plenary session of the Supreme Court decided on 24 September 1999 "To draw the attention of bodies conducting pre-trial investigations and courts to serious violations of the law of criminal procedure, which guarantees the right to a

defence, and of the Supreme Court's Plenary Decision of 20 December 1996 on practice in the application of the law guaranteeing the right to a defence. Court Chairmen shall take steps to eliminate violations of the right of citizens to a defence and to ensure the genuine participation of defendants in criminal court hearings and the equality of the parties in judicial proceedings".

63. Senior judges of the Supreme Court and chairmen of provincial courts reviewed the criminal cases of more than 7,000 defendants with a view to reducing their punishment or, where there was cause to do so, to applying non-custodial penalties. For example, on 19 April 1999, A.Y. Neklyudov, factory manager of the Tashkent fruit and vegetable combine, was found guilty by the Tashkent urban court of stealing property valued at 104,379 som entrusted to him and was sentenced to 6 years' deprivation of liberty. The Presidium of the Supreme Court, taking into account the voluntary and full restitution made for the material damage inflicted and other mitigating circumstances, decided to lift his custodial sentence. He has now been released from custody.

64. During the investigation and the court hearings, detention of persons having committed offences has been widely replaced by the preventive measure of bail, which leaves them free following a deposit of cash, valuables or property, and this has had positive results. It should be noted that whereas 168 persons were put on bail by investigative bodies in 168 cases prior to the adoption of the Supreme Court's Plenary Decision of 14 May 1999, after the adoption of the Supreme Court's directives more than 700 persons were bailed during investigations and court hearings. All this demonstrates a radical change in the attitude of investigative bodies and the courts to preventive measures.

65. On the basis of the principle of using the full force of the law against organized criminal groups and persons committing particularly serious and serious crimes, the Supreme Court is working actively to shape judicial practice. As a result, it has been possible not only to stabilize the situation but also sharply to reduce the number of crimes committed. The per capita crime rate in Uzbekistan is the lowest among countries of the Commonwealth of Independent States (CIS).

66. The Supreme Court supervises judicial practice and the use of the full force of law against persons attempting to destabilize the situation in Uzbekistan, persons who have committed particularly serious crimes, extremists and organizers of and active participants in criminal groups that threaten public security. At the same time, the judicial system is providing for lighter sentencing of minors, women, very old people, the handicapped, persons committing crimes which do not represent a grave public danger and chance offenders. The President of Uzbekistan has repeatedly referred to the need to transform the courts from punitive bodies to bodies which protect citizens' rights and freedoms and, after duly examining this serious legislative problem, has stated that the law of criminal procedure needs to be made more liberal.

67. The minimum penalties laid down in many articles of the Criminal Code have been removed. This has broadened the possibilities open to courts in sentencing. In addition, the relevant articles of the Criminal Code have been amended to stipulate that custodial sentences should not be imposed in cases if threefold restitution has been made for the material damage

inflicted. It has also been laid down that courts must also devote particular attention in sentencing women and minors to the fact that voluntary restitution made for damage inflicted may be a reason not to impose a custodial sentence.

68. The Decision of the Supreme Court also provides for a lighter sentence in the case of persons committing economic offences as a result of unforeseen economic risk, false entrepreneurship and an incorrect understanding of the laws of a market economy, in cases where the offence did not have serious consequences and restitution has been made voluntarily for the damage inflicted.

69. In addition, the Supreme Court's Decision states that courts must not be bound in any way in handing down sentences by the fact that during the pre-trial investigation the guilty person was detained in custody as a preventive measure, and refers to the need, when bringing criminal cases to court, to review, in accordance with article 396 of the Code of Criminal Procedure, whether the preventive measure chosen was the correct one, and the need to react to each case of unwarranted use of detention in custody as a preventive measure. This demonstrates that there is a legal basis for the court to examine and evaluate the preventive measure chosen, even if it has not been the subject of a complaint.

70. The Supreme Court has prepared and is consistently implementing several measures. For example, the Chairman of the Supreme Court, the Procurator-General and the Minister of Internal Affairs have, at its initiative, sent instructions to the relevant bodies concerning the correct application of the Act on Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan of 20 August 1999.

71. These instructions clarify the procedure for applying and bringing into line with new statutes court decisions concerning persons convicted under articles 111 (3), 131 (1) and (2), 132, 167 (1), 173, 177 (1), (2) and (3), 180, 181, 184, 187 (2) and (3), 189, 198, 205 (2) and (3), 206 (2), 228 (1), 229 (1), 233, 258 (1) and (2), 259 (1) and (2), 260 (1), (2) and (3) and 266 (1), (2) and (3). In so doing, those bodies should be guided by the provision in article 13 of the Criminal Code that a law which reduces the sentence of a person or otherwise improves his situation has retroactive effect. It was also recognized that there was a need to review on the basis of principles of humaneness and justice sentences handed down for persons who have made restitution for material damage inflicted during the pre-trial investigation or in court, and for those convicted of offences for which the new law provides for a lighter sentence.

72. On the basis of these instructions, specific measures have been worked out and adopted in departments of the relevant law-enforcement agencies.

73. Particular attention was devoted at the Republican Judges' Forum, held at the Supreme Court on 27 January 1999, to the importance of these changes in the law, and instructions were given to all judges that the requirements of the Supreme Court's Plenary Decision of 14 May 1999 must be strictly adhered to.

74. At the beginning of 2000, as a result of the measures being taken, persons convicted of economic crimes had made restitution for material damage in the amount of 660,796,472 som, and their penalties were reduced accordingly.

75. With a view to ensuring the independence of the judiciary, further improving work relating to the selection and appointment of judges, and observing legal requirements and principles of fairness in recommending highly-qualified and honest specialists for judgeships, a Presidential Decree on the establishment of a Supreme Board of Experts on Selection and Recommendation for Judgeships was issued on 4 May 2000. The Board was established under the President's Office and is obliged to work on the basis of the Constitution, the Courts Act, and Decrees and Ordinances issued by the President with a view to establishing regular policy.

76. As the highest judicial body in the field of civil, criminal and administrative law, the Supreme Court is called upon to continue to guarantee the observance of citizens' rights and freedoms proclaimed in the Constitution and laws of the land and in international human rights covenants.

77. The Presidential Decree of 14 August 2000 on improving the judicial system of the Republic of Uzbekistan was adopted with the aim of reforming and further enhancing the democratic bases of the judicial system, ensuring the fair and prompt hearing of court cases, further strengthening safeguards for the protection of citizens' personal, political, economic and social rights and freedoms, and bringing about the specialization of courts. Under the Courts Act, the following are being formed from 1 January 2001 on the basis of the existing courts of general jurisdiction: the Supreme Court of the Republic of Uzbekistan for Civil Cases and provincial, urban and inter-district courts and the Tashkent court for civil cases, and the Supreme Court of the Republic of Uzbekistan for Criminal Cases and provincial, urban and inter-district courts and the Tashkent court for criminal cases.

IV. EXPULSION AND RETURN (REFOULEMENT) OF PERSONS WHO MIGHT BE SUBJECT TO TORTURE (art. 3)

78. The statutory regulation of the expulsion, return or extradition of persons - especially citizens of the Republic of Uzbekistan - is set out in a number of legislative instruments, chiefly the Citizenship Act, the Criminal Code, the Consular Statute and the rules of bilateral and multilateral international agreements to which Uzbekistan is a signatory.

79. Article 8 of the Citizenship Act states that "Citizens of the Republic of Uzbekistan abroad enjoy the protection and patronage of the Republic of Uzbekistan".

80. A citizen of the Republic of Uzbekistan may not be extradited to a foreign State unless otherwise provided for in an international agreement with the Republic of Uzbekistan.

81. The Criminal Code sets out the limits to the application of criminal law: "A person who commits an offence in Uzbek territory is subject to liability under the Criminal Code of the Republic of Uzbekistan" (art. 11 and 12).

82. In concluding international agreements on legal assistance in family, civil and criminal cases, Uzbekistan adheres strictly to the provisions of article 1, paragraph 3, of the Convention against Torture prohibiting the expulsion, return ("refoulement") or extradition of a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

83. The Agreement on Partnership and Cooperation, which entered into force on 1 July 1999, was signed with a view to enhancing cooperation between States and also to strengthening the protection of citizens and regulating matters relating to persons committing an offence on the territory of a foreign State. The Agreement establishes a partnership between the Republic of Uzbekistan and the European Communities and their member States.

84. In addition to the above, the aims of the partnership are:

(a) Cooperation in legislation, including greater alignment of Uzbekistan's current and draft laws with Community law. Cooperation also implies the provision of technical assistance to Uzbekistan, including the exchange of experts, the provision of effective information, in particular on current legislation, the holding of seminars, the training and education of staff engaged in the drafting and application of legislation, and assistance in translating Uzbek legislation in the relevant sectors;

(b) Cooperation relating to democratization and human rights, including the establishment and strengthening of the democratic institutions essential for enhancing the supremacy of the law, and the protection of human rights and freedoms in accordance with international law and the principles of the Organization for Security and Cooperation in Europe. Cooperation will take the form of technical assistance programmes also aimed at assistance in drawing up the relevant laws and regulations, their application, the operation of the judicial system and strengthening the role of the State in matters of justice;

(c) Cooperation in preventing unlawful economic activities, including problems of corruption, illegal transactions involving various types of commodity, including industrial waste, and illegal drugs trafficking.

85. The first meeting of the joint EU-Uzbekistan parliamentary committee was held in 2000, in implementation of the Agreement on Partnership and Cooperation.

V. CHARACTERIZATION OF TORTURE AS AN OFFENCE UNDER NATIONAL LEGISLATION (art. 4)

86. Uzbek criminal law stipulates that law-enforcement officers shall be liable for acts of torture or cruel or inhuman treatment and punishment. The basic principles of the Uzbek Criminal Code prohibit torture and cruel treatment of suspects. This is evidenced by the principles articulated in articles 1 to 10 of the Criminal Code, which stipulate that the punishability and other legal consequences of acts shall be defined by the Criminal Code alone.

87. Punishment and other legal sanctions are not intended to cause physical suffering or to degrade people. Rigorous penalties are prescribed only when the ends of punishment cannot be served by more moderate measures. Punishment or other legal sanctions against a convicted offender must be fair and commensurate with the gravity of the offence, the degree of fault and the risk which the individual poses to society.

88. As well as being outlawed by general principles of justice, torture and cruel treatment are also proscribed by a special section of the Criminal Code, namely chapter XVI, articles 230 to 241, entitled "Offences against justice". In order to address the problem of criminal prosecutions of persons known to be innocent, articles 230 to 236 of the Code make it a criminal offence for judicial officers to prosecute for a socially dangerous act a person known to be innocent, to bring in an unjust verdict, to fail to enforce a judicial decision, or unlawfully to detain a person or remand him in custody.

89. Articles 234 and 235 provide for criminal liability for knowingly unlawful detention, i.e. restricting of a person's liberty for a short period, and for coercion to testify, i.e. mental or physical pressuring of a suspect, accused person, witness, victim or expert by means of threats, blows, beatings, systematic or brutal violence, tormenting, the causing of actual or moderate bodily harm, or other unlawful acts. In both cases, criminal liability ranging from a fine to eight years' deprivation of liberty is prescribed for special categories of persons, namely law-enforcement officers (persons carrying out an initial inquiry or pre-trial investigation and procurators).

90. The Code of Criminal Procedure also contains safeguards against torture and cruel treatment of suspects. These are to be found in the rules and principles of the criminal justice system, specifically articles 11 to 27 of the Code of Criminal Procedure.

91. Article 17 of the Code states that: "Judges, procurators, and persons carrying out initial inquiries or pre-trial investigations are under an obligation to respect the honour and dignity of persons involved in a case". Paragraphs 2 and 3 of the same article state:

> "No one shall be subjected to torture, violence or other cruel, humiliating or degrading treatment."
>
> "It is prohibited to perform acts or hand down judgements which humiliate or demean a person, will lead to the dissemination of details of his private life, thereby endangering the person's health, or cause unjustified physical or mental suffering."

92. The Code establishes the competence of each of the authorities conducting initial inquiries or other criminal investigations, defines the legal status of all persons involved in criminal proceedings (especially suspects, detainees, persons charged with an offence and persons standing trial) and also the procedures and details pertaining to preventive measures and the stages of the investigative process.

93. At no stage of criminal proceedings may these actions, however necessary, depart from the law. Specifically, article 81 of the Code of Criminal Procedure states that "criminal evidence means any factual information on the basis of which an authority carrying out an initial inquiry

or pre-trial investigation or a court may lawfully establish the existence or non-existence of a socially dangerous act, the guilt of the person who committed the act, and other facts of importance for the proper disposal of a case".

94. Evidence consists of the testimony of witnesses, victims, suspects, persons charged with an offence, or persons standing trial; the conclusions of experts; material evidence; sound, video or film recordings; the reports of investigating or judicial authorities; and any other documents. According to article 88 of the Code of Criminal Procedure:

> "In obtaining evidence, it is prohibited:
>
> To perform acts which endanger life or health or are intended to humiliate or demean;
>
> To solicit testimony, explanations or conclusions, to perform experiments, to prepare and circulate documents or objects using violence, threats, deception or other unlawful means;
>
> To conduct investigative operations at night, i.e. between 2200 and 0600 hours, except in circumstances where that is necessary to interrupt the preparation or commission of an offence, to prevent possible loss of evidence of an offence or the flight of a suspect, or to stage a re-enactment of an incident for experimental purposes."

95. Persons conducting an initial inquiry or pre-trial investigation, procurators, nor judges or other persons involved in a case as specialists or experts, with the exception of physicians, may not be present during body searches of persons of the opposite sex performed in the course of investigative or judicial proceedings.

Establishment under Uzbek law of appropriate punishment for torture and degrading treatment

96. Under article 26 of the Constitution, no one may be subject to torture, violence or any other cruel and humiliating treatment. These constitutional requirements correspond to the principles of article 5 of the Universal Declaration of Human Rights, article 1 of the International Covenant on Civil and Political Rights and article 4 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

97. In accordance with article 43 of the Constitution, the State safeguards the rights and freedoms of citizens proclaimed by the Constitution and laws.

98. The Uzbek Criminal Code prescribes criminal penalties for crimes against:

> Life (arts. 97-103);
>
> Health (arts. 104-111);
>
> Freedom, honour and dignity (arts. 135-140);

Constitutional rights and freedoms (arts. 141-169);

Justice (arts. 230-241).

99. In particular, criminal punishment is prescribed for:

(a) Unlawful deprivation of liberty by force, including deprivation causing physical suffering or custody in conditions constituting a danger to life or health;

(b) Bringing to trial, by a person carrying out a preliminary inquiry or pre-trial investigation or a prosecutor, of a person known to be innocent, for the commission of a socially dangerous act, including the commission of a serious or particularly serious act (art. 30);

(c) The issuance of an unlawful judgement, decision, ruling or order, including one resulting in someone's death or other serious consequences (art. 231);

(d) Unlawful detention without lawful cause, unlawful detention or remand in custody (art. 234);

(e) Coercion to testify through mental or physical pressuring by a person carrying out an initial inquiry or pre-trial investigation or a prosecutor, by means of threats, beatings, violence, tormenting or the causing of bodily harm with a view to compelling the giving of evidence, including coercion resulting in serious consequences (art. 235).

100. The following principles are enshrined in the Uzbek Code of Criminal Procedure:

(a) Establishing the truth (art. 22), whereby soliciting testimony by force, by threatening violation of rights or by other unlawful means is prohibited;

(b) The right of suspects, accused persons and defendants to legal defence from the time of detention is upheld (arts. 46, 48 and 51);

(c) Citizens' rights and lawful interests are protected during the collection, verification and evaluation of evidence (art. 88), whereby actions that are dangerous to the life and health of persons, or humiliating and degrading them, and soliciting testimony or statements by force, threats, deception or other unlawful means, are prohibited;

(d) Inhumane treatment of persons detained, remanded in custody or placed in a medical institution is prohibited (art. 215).

101. The Code sets the time-limit for holding and charging persons suspected of committing a crime at 72 hours (art. 226) and that for remand in custody at up to two months (art. 245) or, in exceptional cases for persons charged with serious and particularly serious crimes, at up to 18 months. Persons undergoing the procedure for the application of medical preventive measures may not be confined in a medical institution for more than one month.

102. The Code determines the procedure for making restitution to rehabilitated persons for material and moral damage and restoring their other rights (arts. 304-313).

VI. JURISDICTION OF THE STATE OVER TORTURE AND CRUEL TREATMENT (art. 5)

103. Criminal law defines Uzbekistan's jurisdiction with respect to all types of crime, whether committed inside or outside the country. Article 11 of the Criminal Code states that the Code shall be applicable to persons who commit a crime within the territory of Uzbekistan:

> "... a person who commits a crime within the territory of Uzbekistan shall be liable under this Code;
>
> "A crime committed within the territory of Uzbekistan is an act which:
>
> (a) Is begun, completed or broken off within the territory of Uzbekistan,
>
> (b) Is committed outside Uzbekistan, but whose criminal result arises within Uzbek territory;
>
> (c) Is committed within the territory of Uzbekistan, but whose criminal result arises outside the country;
>
> (d) Constitutes in conjunction or combination with other acts a crime part of which is committed within the territory of Uzbekistan.
>
> "When a crime is committed on an aircraft or a sea-going or inland waterway craft that is outside the borders of Uzbekistan but not within the territory of another State, liability shall arise in accordance with the present Code if the said craft is under the flag of, or registered in, Uzbekistan."

104. Article 12 of the Criminal Code defines the applicability of criminal law to persons who commit crimes outside Uzbekistan:

> "Citizens of the Republic of Uzbekistan and stateless persons permanently resident in Uzbekistan who have committed a crime in the territory of another State shall be liable under the present Code if they have not served a sentence passed upon them by a court in the State in whose territory the crime was committed".

VII. PREVENTIVE MEASURES AGAINST PERSONS SUSPECTED OF HAVING COMMITTED UNLAWFUL ACTS, TORTURE OR DEGRADING TREATMENT (art. 6)

105. The provisions of article 6 of the Convention are reflected in Uzbek national legislation. For example, article 235 of the Criminal Code lists acts relating to coercion to testify and designated as torture.

106. Persons suspected of torture, inhuman treatment or the like may be remanded in custody or subjected to other preventive measures in accordance with the general rules for criminal proceedings, particularly section 4 of the Criminal Code, "Coercion in criminal proceedings", which defines the grounds for, and limits on, restriction of individuals' rights in criminal proceedings.

107. Article 213 of the Code of Criminal Procedure sets out the grounds for the use of coercive measures in criminal proceedings:

(i) If a participant in the proceedings impedes investigative or judicial action;

(ii) If a participant fails to discharge his obligations;

(iii) If such measures are necessary to prevent criminal activity by a suspect;

(iv) If such measures are necessary to prevent criminal activity by an accused person;

(v) If such measures are necessary to secure the execution of a sentence.

Safeguards concerning the use of these measures are found in the Code of Criminal Procedure. Firstly, coercive measures may only be applied when there are genuine grounds for such measures (art. 214); second, they must be applied in full and strict accordance with the law (art. 214); third, they may only be applied by a person carrying out an initial inquiry or pre-trial investigation in circumstances where they are lawful and justified.

108. Article 215 of the Code of Criminal Procedure regulates the treatment of detainees being held in custody or placed in a medical institution: "inhumane treatment of persons detained, remanded in custody or placed in a medical institution is prohibited". Such persons must be given the opportunity of private meetings with their counsel and of access to legal information, paper and office supplies for the writing of complaints, petitions and other procedural documents.

109. The rights and duties of authorities in places of execution of coercive measures are laid down in article 216 of the Code of Criminal Procedure:

> "The authorities in places of short-term detention or remand centres are entitled:
>
> To inspect inmates' correspondence, other than complaints and petitions addressed to a person carrying out an initial inquiry or pre-trial investigation or a procurator or court; to inspect parcels, printed matter and communications addressed to inmates;
>
> To search, fingerprint and photograph inmates;
>
> To remove and keep money, valuables and objects that inmates are not legally entitled to possess, use or have at their disposal;

To prohibit contact between persons who are suspects or have been charged in the same case."

"The authorities in places of short-term detention or remand centres must:

Provide inmates with copies of the indictments against them, and with copies of court verdicts or decisions on the day of their receipt;

Forward inmates' complaints, petitions and letters to their addressees not more than one day after such communications are presented to them;

Transfer inmates to remand centres in other areas when a person carrying out an initial inquiry or pre-trial investigation or a procurator so orders or a court so rules;

Release inmates immediately upon expiry of their period of detention and give seven days' written notice to the head of the investigative body or the procurator of the expiry of a period of remand in custody."

VIII. SUBMISSION BY THE STATE TO ITS COMPETENT AUTHORITIES OF THE CASES OF PERSONS FOUND TO HAVE COMMITTED TORTURE (art. 7)

110. In cases where the competent Uzbek authorities receive information to the effect that someone has been found guilty of torture or degrading treatment but has not paid the corresponding penalty, the question to which jurisdiction the person is subject will depend on articles 11 and 12 of Uzbekistan's Code of Criminal Procedure.

111. When proceedings are opened against persons accused or suspected of torture or degrading treatment, the law-enforcement agencies act in accordance with the general principles laid down in the Uzbek Code of Criminal Procedure. The investigation is conducted in exactly the same way as for any other offence.

112. The law guarantees fair treatment at all stages of the hearing of the case for everyone brought to trial for any of the crimes referred to in article 4 of the Convention. This is evidenced by, for example, articles 11 to 24 of the Code of Criminal Procedure and by article 16, which provides that in criminal cases justice shall be administered on the basis of citizens' equality before the law and the courts, irrespective of their sex, race, nationality, language, religion, social origin, religious beliefs or personal or social status.

113. In order to meet the requirements of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and other international legal instruments, procuratorial bodies took the following measures between August 1999 and August 2000 to prevent cases of unlawful conduct of investigations and the use of torture and degrading forms of treatment and punishment by investigative bodies.

114. Every six months, cases of unlawful conduct of an investigation and unwarranted bringing of criminal proceedings are collected and examined by the Board of Procurators of the Republic of Uzbekistan and measures under criminal and administrative law are taken against investigative and procuratorial officials who have permitted these breaches of the law, and officials of the national security service, internal affairs bodies and other law-enforcement authorities are informed in order to prevent similar unlawful acts.

115. According to statistics provided by the Procurator's Office, criminal proceedings were brought against eight officials of internal affairs administrations in 1999 as a result of citizens' complaints of unlawful acts by officials of internal affairs bodies. Following the hearing of the cases, two were dismissed from their posts and six were disciplined.

116. The following sanctions were taken against 29 procuratorial officials who permitted unlawful methods of conducting an investigation: 11 were dismissed from their posts and 18 were disciplined.

117. According to statistics provided by the Procurator's Office, no applications were received by law-enforcement agencies for compensation for damage done as a result of the use of torture or unlawful treatment.

118. The Procurator's Office received 6 citizens' complaints in 1999 concerning unlawful methods of conducting an investigation by procuratorial officials and 24 complaints against officials of the Ministry of Internal Affairs. These cases were examined and criminal proceedings were brought against 5 officials of the Ministry of Internal Affairs, while procuratorial measures were taken against 19.

119. It has been revealed that in 1999, under article 221 of the Code of Criminal Procedure, internal affairs bodies illegally detained four citizens, and four citizens were subjected to unwarranted detention by officials of procuratorial bodies.

120. According to information provided by the Procurator's Office, 26 citizens were unlawfully brought to trial by procuratorial investigators and 8 by internal affairs bodies, 11 of whom had already served a sentence of deprivation of liberty at the time when the violations were discovered. The unlawful bringing of criminal proceedings against citizens and unwarranted detention in custody are considered by the Board of Procurators of the Republic of Uzbekistan and the outcome is used to determine appropriate preventive measures.

121. More than 400 officials have been trained at the centre for Enhancing the Skills of Procuratorial and Investigative Officials, where new laws and codes are explained to them.

IX. INCLUSION IN EXTRADITION TREATIES AS EXTRADITABLE OFFENCES OF THE OFFENCES REFERRED TO IN ARTICLE 4 OF THE CONVENTION (art. 8)

122. In fulfilling its international obligations, the Republic of Uzbekistan adheres strictly to their universally recognized principles and the rules of international law. Uzbekistan does not accept violation of the principle of the rule of law at any level.

123. Persons who breach the law or infringe honour and dignity must be punished, irrespective of where the offence is committed.

124. Articles 8, 9 and 10 of the Code of Criminal Procedure state:

> "In the cases and according to the procedure laid down in international treaties and agreements, the Procurator's Office of the Republic of Uzbekistan shall request the appropriate institutions of the foreign State to extradite a person who has committed an offence within the territory of the Republic of Uzbekistan if criminal proceedings have been instituted, or a verdict of guilty pronounced, against him."

125. The request for extradition must generally contain:

(a) The surname, first name and patronymic of the accused or convicted person, his date of birth, information about his citizenship and a description or photograph;

(b) The actual circumstances of the offence committed, together with the text of the law stipulating liability for it and an indication of the penalty;

(c) Information concerning when and where the verdict was handed down and on its entry into legal force.

The application for extradition must be accompanied by a copy of the verdict or summons to appear as the accused in the trial.

126. A person extradited to Uzbekistan by a foreign State may not be held criminally liable, punished or extradited to a third State for an offence committed by him before the extradition and for which he was not extradited, without the consent of the extraditing State.

127. Extradition to another State is not permitted if:

(a) The person whose extradition is being requested is a citizen of Uzbekistan, unless otherwise provided in the treaties and agreements concluded between Uzbekistan and the other State;

(b) The offence was committed within the territory of Uzbekistan;

(c) A verdict with respect to the person concerned has already been handed down and entered into legal force for the same offence as that for which his extradition is being requested or a decision exists halting criminal proceedings on the same charge;

(d) The case may not be brought to trial under Uzbek law or the verdict may not be enforced because it is time-barred or for any other lawful reason;

(e) The act for which extradition is being requested is not an offence under Uzbek law.

128. The question of the liability for offences committed within the territory of Uzbekistan of aliens who, under current law or international treaties or agreements, are not subject to the jurisdiction of Uzbek courts, is resolved on the basis of the rules of international law.

129. Generally speaking, questions of the extradition, expulsion and return (refoulement) of persons with respect to whom there are substantial grounds for believing that they would be in danger of being subjected to torture are regulated by bilateral agreements (primarily treaties on judicial assistance in civil, family and criminal cases).

130. The above relations are usually governed by model rules under the heading "Extraditable offences", on the following pattern:

(a) The contracting parties undertake, in accordance with the provisions of the treaty (on judicial assistance and legal relations in civil, family and criminal cases), reciprocally to extradite upon request, for the purposes of criminal prosecution or enforcement of a court judgement, persons present in their respective territories;

(b) Extradition is possible for acts which are offences under the law of both contracting parties and for which the prescribed penalty is deprivation of liberty for more than one year or more serious punishment.

131. Extradition for the purpose of enforcing a court judgement is possible when the person in question has been sentenced to more than six months' deprivation of liberty or to more serious punishment.

132. Extradition may be refused if:

(a) The person whose extradition has been requested is a citizen of the requested contracting party or has been granted the right of asylum in that State;

(b) The law of the contracting parties provides that criminal proceedings may only be initiated pursuant to a personal complaint by the victim;

(c) At the time the request is received, prosecution under the law of the requested contracting party or enforcement of a court judgement is time-barred or precluded for some other legitimate reason;

(d) A legally enforceable ruling or decision to halt proceedings against the person whose extradition has been requested has been handed down in the territory of the requested contracting party in respect of the same offence.

An extradition request may also be refused if the offence to which it refers was committed in the territory of the requested contracting party.

133. Upon refusal of an extradition request, the requested contracting party must notify the requesting contracting party of the grounds for refusal.

134. Uzbek law does not contain any specific rules prohibiting expulsion, return or extradition of a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture; there are only referential rules to the effect that the principle of the primacy of international law applies in such cases.

X. ASSISTANCE IN CONNECTION WITH THE PROSECUTION OF PERSONS FOUND TO HAVE COMMITTED TORTURE (art. 9)

135. Uzbekistan, having become a full member of the international community and a party to a number of conventions in the sphere of international humanitarian law, is committed to the full observance of human and citizens' rights and freedoms. Almost all the country's statutory instruments are based on the principle of the primacy of international law over domestic law, and that is reflected in the instruments themselves.

136. The National Central Bureau for Interpol was established by Cabinet of Ministers' Decision No. 573, dated 29 November 1994. Instructions have been drawn up concerning the procedure for fulfilment by internal affairs agencies of the Republic of Uzbekistan of requests and mandates relating to Interpol.

137. Instructions have also been drawn up on interaction between the National Central Bureau for Interpol and other law-enforcement agencies and on the processing of information (recording, registration, storage and use), including by computer, in the National Central Bureau.

138. Working arrangements are in place for interaction on the main aspects of the National Central Bureau's activities with the relevant departments of the Ministry of Internal Affairs, principally: the Chief Directorate for Criminal Investigations (concerning international investigations); the chief directorates for combating corruption, racketeering and terrorism (concerning white-collar crime); the Directorate of Entry, Exit and Citizenship's Information Centre; the Organization and Inspection Directorate; the Directorate of State Motor Vehicle Inspection; and the Directorate of the Prophylaxis Service.

139. Arrangements also exist for cooperation between subdivisions of the Procurator's Office, the Ministry of Foreign Affairs, the CIS and other interested ministries and government departments. There are exchanges of business correspondence and information of mutual interest with all these entities.

140. The National Central Bureau for Interpol comprises a director, a secretariat, a finance section, two departments (the head of one of which also serves as deputy director of the Bureau), a computer and equipment unit and communications officers from the Ministry of Internal Affairs.

XI. EDUCATION AND INFORMATION REGARDING THE PROHIBITION OF TORTURE, AND TRAINING OF LAW-ENFORCEMENT PERSONNEL (art. 10)

National Programme of Action for Human Rights

141. The draft National Programme of Action on Human Rights, which includes a National Plan of Action and recommendations concerning all aspects of the protection of human rights, was drawn up in 2000. The National Programme of Action is aimed at: the gradual assimilation of international experience in promoting a legal culture, while taking account of the historical particularities that have determined Uzbekistan's own path of development; surmounting the problems of the post-totalitarian period; and devising a special strategy and instituting carefully planned and clearly formulated measures for the protection of human rights in Uzbekistan.

142. The conceptual framework of the National Programme of Action is shaped by the common principles for the development of a global legal culture as set forth in the International Bill of Human Rights and also the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

143. The National Programme of Action contains the following recommendations to all authorities for bringing national legislation into line with the rules of international law:

> Departmental regulations must govern intra-organizational relations and technical matters, without impinging upon citizens' rights and interests;
>
> Regulation of the machinery for the realization of citizens' rights and interests must not limit the extent of the realization of these rights as provided for by law;
>
> A comprehensive goal-oriented review should be made of the statutory instruments of regional authorities having a bearing on the securing of human rights, in order to bring those instruments into line with the Constitution of the Republic of Uzbekistan and the international treaties which have been ratified. Statutory instruments not meeting these criteria should be repealed or revised. All statutory instruments relating to constitutional rights and freedoms must be made publicly available in the press.

144. A great deal of work is being done in Uzbekistan to enhance the skills of law-enforcement officials.

Training of managers in the Ministry of Internal Affairs

145. The Ministry of Internal Affairs reports that courses are provided for the further training of managers at the Skills-enhancement Faculty of the Academy of the Ministry of Internal Affairs. Special subjects have been included in the curriculum with the main aim of informing officials working in internal affairs bodies of international human rights standards (general

theory of human rights, human rights and the work of Uzbek internal affairs bodies and law-enforcement agencies, etc.). In addition, departments of the general theory of human rights and of international law, whose lecturers have received training at a number of educational establishments abroad, have been set up.

146. In October and November 1999, seven senior officials of the Ministry of Internal Affairs attended a training course in human rights at the Constitutional and Legal Policy Institute of the Soros Foundation's Open Society Institute in Budapest.

147. Senior officials of the Ministry and the Ministry of Defence received training at an international humanitarian law course in Kyrgyzstan from 15 to 23 May 2000.

148. In September 1999 and September 2000, the United States Federal Bureau of Investigation (FBI) organized training sessions for officials of the Education Department and Skills-enhancement Faculty of the Academy of the Ministry of Internal Affairs. The training included a course on the role of the police in emergencies.

149. Four Ministry officials underwent training in the United States in 1999-2000. In order to improve the level of training of officials working in internal affairs bodies, the Academy has prepared and published a number of scientific articles and studies relating to the securing of human rights by officials of internal affairs bodies. They include:

Criminal Law and its Significance in Securing Human Rights, by M.N. Kadyrov;

Ensuring Legality in Operational Measures, by V.G. Karimov;

The Problem of Ensuring the Procedural Rights of Minors, by A.A. Kulakhmetov;

Securing Human Rights during Police Inquiries, by A.A. Khamdamov; and

International Individual Human Rights Standards, by B.I. Ismailov.

150. Students at the Academy of the Ministry of Internal Affairs took an active part in a number of scientific conferences on the protection of human rights, including "International human rights standards in the work of law-enforcement agencies" (May 1999).

151. A seminar on problems in the implementation of the rules of international humanitarian law was organized jointly with the delegation of the International Committee of the Red Cross in September 1999.

152. Arrangements have been made for the staff of State penal institutions and departmental establishments to study the Code for the Execution of Criminal Penalties. Scientific field conferences at which the provisions of the Code and new laws are explained are held in various regions of Uzbekistan in conjunction with the Procurator's Office and the Academy of the Ministry of Internal Affairs.

153. Over the past year the Ministry of Foreign Affairs has issued 13 orders to regulate the operation of the penal system.

A. Teaching materials and information concerning the prohibition of torture and degrading treatment

154. Considerable educational efforts are being pursued among employees of law-enforcement agencies to prevent any action ultra vires or any unwarranted or unlawful treatment of citizens and detainees. These efforts have led to young people being increasingly targeted in the educational process, because they are the ones who will be carrying through the present reforms and will bear their full responsibility for implementing the Government's programmes and for building a free and economically advanced democratic society.

155. Particular attention is being devoted in shaping legal awareness to national particularities and to the preparation of materials in Uzbek to facilitate information and educational work among the general public.

156. On 29 May 1998 the Government of Uzbekistan adopted Decision No. 235 concerning measures to achieve the goals set in the National Programme to Enhance the Culture of Law in Society.

B. Human rights education and training of senior officials in human rights

157. On the initiative of President I.A. Karimov, a course on human rights has been included in the curricula of all educational establishments since 1997 and an integrated system for teaching it has been established.

158. Issues relating to the protection of human rights, broadening democracy and enhancing legality have been included in the curricula of educational establishments at all levels, especially in general-education schools, universities, higher legal and teacher-training establishments, institutes of administration and management and general-education establishments of the Ministry of Defence, the Ministry of Internal Affairs, the National Security Service and the Procurator's Office.

159. A uniform system of departments and centres for the study of human rights and freedoms has been set up in all higher educational establishments in the country.

160. A department of the theory and practice of human rights has been established in the Academy of the Ministry of Internal Affairs. A course on the Convention against Torture has been included as part of the student training programme of four courses at the Academy.

161. In November 1999, the second stage of training for officials of the Committee for State Border Protection was held in Warsaw in conjunction with the Office for Democratic Institutions of OSCE, and a series of lectures was given on human rights in the work of the border protection service.

162. As part of the programme of cooperation in 2000 between the National Centre for Human Rights of the Republic of Uzbekistan and the OSCE Liaison Office in Central Asia, a training course for staff of the Procurator's Office and the Ministry of Internal Affairs, judges and lawyers was held in August 2000 in conjunction with the American Bar Association and the Office of the United Nations High Commissioner for Refugees. Participants in the training course learned about the report submitted by Uzbekistan to the Committee against Torture and specific examples from world judicial practice (the Ireland v. Great Britain, Selmouni v. France and Linton v. Jamaica cases), and exchanged examples from their own work experience. The training course was held in three regions of Uzbekistan. It was attended by 84 participants - officials of the Procurator's Office and the Ministry of the Interior, judges and lawyers - from eight Uzbek provinces, the Republic of Karakalpakstan and the city of Tashkent.

163. A UNESCO department of human rights, democracy and mutual international assistance has been opened in the University of World Economy and Diplomacy.

164. The K. Niyazov Scientific Research Institute for Senior Educators of the Ministry of National Education of the Republic of Uzbekistan has established a special human rights course. Particular attention is devoted to the training of senior educators in teaching human rights as a subject in schools. Appropriate tests and educational tools are being prepared in this area.

165. The Republican Educational Centre of the Ministry of National Education reports that a course on human rights has been taught in classes 11 and 12 since 1997. A textbook entitled "Human rights" was published in 1997.

166. Classes 1 to 4 study "A legal alphabet", classes 5 to 7 "Fundamentals of the law", class 8 "Fundamentals of the State and law", class 9 "Constitutional law" and classes 10 and 11 "Jurisprudence" and "Human rights". The Tashkent Centre for Public Education and the Open Society Institute of the Uzbekistan Assistance Foundation have drawn up a methodological aid for teachers - "Jurisprudence" - for classes 10 and 11. Pursuant to Order No. 200 of the Ministry of Higher and Secondary Education, dated 29 July 1997, a 40-hour course on human rights has been introduced in teacher-training establishments.

167. The A.A. Avlonii Central Institute for Enhancing the Skills of National Education Officials has also set aside time for teachers to study "Legal fundamentals of education", a course attended by some 4,100 to 4,200 teachers every year. Between 1996 and 1999, more than 200 teachers of law studies enhanced their skills in this area.

168. Enrolment in law studies at higher educational establishments has increased by an average of 20 per cent. A segment on the fundamentals of the national youth policy has been included in the curriculum of the "State and law" programme in secondary specialized educational establishments since 1998.

169. In 1999, the State Pedagogical Institute and the management of the Tashkent State Institute of Law signed an agreement to organize six-day courses for humanities faculties. Eighteen teachers were re-trained in skills enhancement courses. The Institute organized 12-day skills enhancement courses for teachers of law.

170. The following aids, textbooks and fact sheets were made available with the aim of preventing crime among youth: "Fundamentals of State and law", "Fundamentals of law", "Jurisprudence", "Criminological aspects of fighting crime", "Human rights", "Early detection and prevention of drug addiction among university and college students" and "Bringing up a healthy generation".

171. In order to increase awareness of the law among headmasters and teachers at secondary schools in Tashkent, the Tashkent City Institute for Further Teacher Training has added a course of lectures on human rights to its programme.

172. The human rights course at the Centre for Enhancing Lawyers' Skills of the Ministry of Justice now has an additional four to eight hours of seminar studies.

173. The management of the Centre for Enhancing the Skills of Investigative and Procuratorial Officials of the Procurator's Office places particular emphasis on the organization of a special course on human rights, which was attended by more than 357 participants in 1999.

174. The human rights course of the Academy of the Ministry of Internal Affairs was attended by 478 students in 2000, including 29 from the Faculty for Enhancing the Skills of Managers. This course systematically includes seminars, conferences and quizzes with a broad range of participants - teachers, students and schoolchildren.

175. In April, June and September 2000, the OSCE office in Uzbekistan held a series of training sessions on human rights monitoring and reporting. Representatives from a number of Uzbek non-governmental organizations, officials of the Office of the Ombudsman and the National Centre for Human Rights of the Republic of Uzbekistan, and lawyers took an active part in the sessions, which were led by expert trainers from the Warsaw Department of the Helsinki Fund for Human Rights, A. Klosowski and Y. Kopchuk, and an expert trainer from the International League for Human Rights, A. Korotaev. Participants in the sessions acquired practical skills in monitoring Uzbekistan's observance of the rules of international law in the sphere of human rights and the preparation of human rights reports and alternative reports.

176. A great deal of work is being done to disseminate knowledge of the law among schoolchildren in urban and provincial schools by distributing legal literature to school libraries. More than 120,000 fact sheets in Russian and Uzbek on the Universal Declaration of Human Rights have been distributed for children to read in school libraries throughout the country.

177. The Open Society Institute's Uzbekistan Assistance Foundation runs the following programmes: "Human rights; civics", "On the side of civics and the economy" and "Street law". The purpose of the "Human rights; civics" programme is to instruct teachers and trainers in these two subjects. The trainers who have attended since its inception are holding seminars in 2000 for teachers in schools, lycées and grammar schools. The programme is organized in conjunction with the Tashkent Centre for Public Education. The programme "On the side of civics and the economy" is intended to make pupils and teachers understand the need to know about their rights and the significance of the Constitution, and the importance of taking part in the social and economic life of the country. The purpose of the "Street law" programme is to

prepare and approve a textbook on jurisprudence for classes 10 and 11 and a handbook for teachers. The textbook contains new approaches to the teaching of human rights and civics. Work began in 1999 with the attendance of officials of the National Centre for Human Rights of the Republic of Uzbekistan, the Tashkent Penal Institution and Tashkent province.

178. Work on education in law among minors continued in penal establishments in 2000 in association with UNICEF. Between November 1999 and September 2000, the National Centre for Human Rights of the Republic of Uzbekistan, with the assistance of the Ministry of the Interior and in association with such organizations as the Save the Children Fund (UK) and UNICEF and the office of the Commissioner for Human Rights of the Oliy Majlis (Ombudsman), visited penal establishments for minors, and in particular the young offenders' institution in the village of Zangiot in Tashkent province, the educational labour colony in Tashkent, the UY-64/7 women's colony and specialized boarding school No. 64 in Samarkand. The visits were carried out as part of the programme devoted to the "Soglom avlod uchun" Year and the celebration of the tenth anniversary of the adoption of the Convention on the Rights of the Child.

179. With the support of UNICEF, the National Centre for Human Rights took part in the "You are like everyone else" project. The basic aim of the project is to help make the conditions for detention of young people in penal establishments and specialized boarding schools more humane and to provide legal, psychological and moral preparation for young people to adapt to leaving these institutions. The following events took place as part of the programme:

(i) A charity event for International Child Protection Day at boarding school No. 64 in Samarkand on 28 May 2000;

(ii) An event for Anti-Drugs Day on 27 June 2000.

180. Directors of penal establishments were given an international law literature pack.

181. An analysis of the current situation shows that the low level of knowledge of the law among some civil servants is having a significant negative impact on the progress of legal reforms in Uzbekistan.

182. Special legal instruction programmes on human rights and freedoms have been prepared with the assistance of the National Centre for Human Rights of the Republic of Uzbekistan and the Academy of the Ministry of Internal Affairs for officials of khokims' offices, workers in the social field, military personnel, law-enforcement officers and staff working in the penitentiary system, health workers, staff of educational establishments, etc.

183. In order to coordinate the activities of State bodies in securing human rights, the National Centre for Human Rights of the Republic of Uzbekistan works closely with such State institutions as the Academy of the Ministry of Internal Affairs, the Centre for Enhancing the Skills of Investigative and Procuratorial Officials of the Procurator's Office, the Centre for Enhancing Lawyers' Skills of the Ministry of Justice, the Centre for the Study of Human Rights

and Humanitarian Law of the Tashkent State Juridical Institute, the Legal Education Publicity Centre of the Tashkent State Juridical Institute, the Ministry of National Education, the A.A. Avlonii Central Institute for Enhancing the Skills of National Education Officials, the Republican Educational Centre, the Ministry of Higher and Secondary Specialized Education, and the K. Niyazov Scientific Research Institute for Senior Educators of the Ministry of National Education, as well as the following national human rights institutes: the office of the Commissioner for Human Rights of the Oliy Majlis (Ombudsman) and the Institute for Monitoring Current Legislation reporting to the Oliy Majlis.

184. In the educational sphere the National Centre for Human Rights works in close cooperation with the following international organizations: the United Nations, UNHCR, UNDP, OSCE, the OSCE Office for Democratic Institutions, USAID, TASIS (the American School in Switzerland), UNESCO, UNICEF, the Soros Foundation, the Konrad Adenauer Foundation, the Counterpart Consortium, Save the Children Fund (UK), the Canadian Human Rights Fund, diplomatic missions accredited to Tashkent and international non-governmental organizations, in particular, Human Rights Watch.

185. The National Centre for Human Rights of the Republic of Uzbekistan, together with international organizations, has produced illustrated posters on the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Declaration on the Elimination of Discrimination against Women, and a fact sheet on the Universal Declaration of Human Rights, for pupils at primary and secondary schools, academic lycées and colleges, in Russian and Uzbek.

186. On the basis of the National Programme for the Training of Cadres and the National Programme for Enhancing the Culture of Law in Society, the National Centre for Human Rights of the Republic of Uzbekistan arranges meetings, seminars and round tables, and children's competitions with a view to instilling international principles and rules in the field of human rights and freedoms in broad sections of the population.

187. On 30 and 31 March 1999, a scientific practical seminar on "Human rights and modern mass media" was held in conjunction with the Commissioner for Human Rights of the Oliy Majlis, the "Ishtimoii fikr" centre for public opinion, the State Science and Technology Committee, the National Committee for UNESCO, the "Camelot" Uzbekistan Youth Foundation and the UNESCO Division of Human Rights, Democracy, Peace and Tolerance.

188. A coordination meeting of law-enforcement and judicial bodies on cooperation between the Ombudsman and law-enforcement and judicial bodies was held at the Procurator's office on 30 September 1999.

189. In implementation of the national programme to enhance the culture of law in society, a scientific practical seminar on "The culture of law - a fundamental aspect of the development of civil society" took place on 5 October 1999.

190. A conference on the inclusion of alternative measures in criminal legislation, attended by officials of the Uzbek penitentiary system, was held in Almaty from 25 to 27 October 1999. To mark the occasion, the Soros Institute of Open Society provided a grant to the Academy of the Ministry of the Interior and the Tashkent Institute of Law for research on alternatives to imprisonment.

191. An event sponsored by the Ministry of Internal Affairs and celebrating the tenth anniversary of the Convention on the Rights of the Child was held at a young offenders' institution on 23 November 1999. It took place at the initiative of the National Centre for Human Rights and with the support of the Save the Children Fund and UNICEF. The event was followed by educational and legal studies with the young offenders on fundamental human rights and freedoms, and professional teaching for the staff about international human rights standards. The management of the young offenders' institution was given 600 copies of the fact sheet on the Universal Declaration of Human Rights and sets of posters.

192. The second stage of a meeting to celebrate International Human Rights Day was held at the National Centre for Human Rights, in close cooperation with the economic secondary school at the Tashkent State Economic University, on 10 December 1999.

193. In the future it is planned, in conjunction with the delegation of the International Committee of the Red Cross, to hold a round table on implementation of the rules of international law in the Uzbek Criminal Code in times of conflict. Scientists, lawyers, representatives of law-enforcement agencies and international experts are expected to take part.

C. Dissemination of human rights information; publicizing human rights

194. Particular attention is being devoted to the publicizing and dissemination of information about human rights in Uzbekistan.

195. The Programme of Action adopted at the World Conference on Human Rights in 1993 calls upon States to ensure the broadest possible dissemination of information about human rights. The Republic of Uzbekistan is firmly committed to radical legal reform, and the population as a whole has to be the main participant in it. To this end, a study has been made of the potential and experience of international intergovernmental and non-governmental organizations engaged in human rights information and education activities.

196. A cycle of popular human rights information broadcasts on State radio and television in Russian and Uzbek has been prepared for various social and age groups.

197. The President of the Constitutional Court, the Human Rights Commissioner of the Oliy Majlis, the Director of the National Centre for Human Rights and directors of other institutions concerned with the protection of human rights in the Republic regularly address the public through the mass media. In their addresses, they deal with topical human rights issues and answer questions from the general public.

198. Issues relating to the protection of human and citizens' rights are also covered regularly in more than 30 legal journals and newspapers. One such newspaper, called "Time Watch", is published especially for persons serving custodial sentences.

199. Books and brochures devoted to human rights have been prepared for mass circulation.

200. A six-volume series entitled "Constitutions of the World" has been produced in a major print run by the Academy of the Ministry of the Interior.

201. A special bulletin containing information about the human rights situation in the Republic is being issued. The National Centre for Human Rights has been circulating the publication "Democratization and Human Rights" since 1999.

XII. SYSTEMATIC REVIEW OF INTERROGATION RULES, INSTRUCTIONS, METHODS AND PRACTICES, AS WELL AS CUSTODY ARRANGEMENTS (art. 11)

202. Since the greatest number of infringements of the law are to be observed in the activities of internal affairs bodies, often because of the low standard of legal and general knowledge and poor theoretical training of some officials, the Republic's leadership is working to make sure that unqualified staff found to have committed unlawful acts against people involved in law-enforcement proceedings are removed from such bodies. This may be illustrated by the Presidential Order of 10 October 1998 on the establishment of commissions to evaluate the work of senior officials in internal affairs bodies of the Republic of Uzbekistan.

203. Considerable efforts are also being undertaken by judicial bodies to ensure the uniform application of the rules, instructions, methods and practices for conducting investigations (including interrogations and arrangements for custody).

204. In the context of the establishment of a democratic State based on the rule of law in Uzbekistan, particular importance attaches to the strictest observance of the law and citizens' rights and to the issuance of sound and fair judgements in keeping with all the rules of procedural law. Most cases are considered by the Republic's courts in strict compliance with procedural law, but serious shortcomings that adversely affect the quality of the handling of cases still persist.

205. Information about a defendant's character and circumstances that might rule out a prosecution are not always properly studied at the preliminary stage. There are cases of unjustified refusal to grant applications made by parties to the proceedings. The procedure for considering applications is itself also breached. To prevent such infringements and ensure that procedural law is observed during judicial proceedings in criminal cases, the Supreme Court of the Republic of Uzbekistan, meeting in plenary session, has drawn the attention of courts to the need for strict observance of procedural law during the hearing of cr minal cases, bearing in mind that only precise and unswerving compliance with procedural law can ensure that the circumstances of a case are comprehensively, thoroughly and objectively examined, that the causes and circumstances contributing to the commission of offences are ascertained and that action by the courts serves the purpose of rehabilitation.

206. The Supreme Court determined at its plenary session that the attention of courts should be drawn to the fact that, when considering each case, they must study the evidence directly at the court hearing: question the defendants, victims and witnesses, hear the findings of experts, examine the physical evidence and read out records and other documents. Testimony by the defendant may be read out only under the circumstances specified in article 104 of the Code of Criminal Procedure, which provides an exhaustive list of such circumstances. Statements made by a witness or victim during a pre-trial investigation may be read out only if there are substantial discrepancies between them and statements made in court, or if the witness or victim is absent from the hearing owing to circumstances which make it impossible for them to appear in court.

207. The plenary session drew particular attention to the special arrangements for conducting an investigation in respect of minors: "When hearing cases in which the defendants, victims or witnesses include minors, courts must take particular care to meet the requirements of articles 84, 121 (3) and 442 of the Code of Criminal Procedure." Since the disclosure of certain details of cases may have an adverse effect on minors, courts must always consider whether minors need to be present in the courtroom when such details are examined.

208. Particular attention was devoted to the accurate reflection in the records of: applications filed by parties to judicial proceedings and the consideration of such applications; rulings issued by the court in a hearing without retiring to chambers for deliberations; statements made by the defendant on the substance of the charge brought against him and by witnesses or victims regarding the circumstances of the case, and the process of examining the evidence.

209. The decision includes a recommendation that, when considering cases on appeal or under the judicial review procedure, the criminal division of the Supreme Court of the Republic of Uzbekistan, the Supreme Court of the Republic of Karakalpakstan, the Tashkent city and regional courts and the Military Court of the Armed Forces of the Republic of Uzbekistan should devote particular attention to compliance with criminal-procedure law by courts of first instance and should systematically analyse errors in the application of such law during court hearings of criminal cases, not disregarding a single instance of infringement.

XIII. PROMPT AND IMPARTIAL INVESTIGATION OF ACTS OF TORTURE (art. 12)

210. As in all areas of social life, radical positive changes are taking place in the penal system of Uzbekistan.

211. Laws and legislative instruments relating to the work of the system are reviewed and amended on the basis of State programmes, fundamental principles, trends, international legal rules and conventions aimed at the building of a democratic society based on the rule of law.

212. Penal establishments ensure that offenders are housed separately and differently, depending on the seriousness of the offences they have committed, the existence or otherwise of previous convictions and the length of their sentence. All the necessary community and

everyday conditions are created for persons who are allowed to move freely without escort or guard. The number of convicted persons' meetings with relatives and the amount of communications, parcels and printed matter they may receive have been increased, and they are now allowed to use the telephone.

213. A number of additional privileges are to be granted to convicted persons serving a sentence in institutions for young offenders and for female offenders.

214. The provision of food and clothing to offenders and all other maintenance costs are fully covered by the State. All inmates are given special clothing, individual accommodation and bedding.

215. The National Centre for Human Rights maintains close ties with penal establishments. Representatives of the Women's Committee of the Republic of Uzbekistan, the Camelot Foundation and a number of international organizations and foundations such as the Save the Children Fund and others have visited places of deprivation of liberty on many occasions. They provide regular humanitarian assistance to penal institutions.

216. Procuratorial bodies, deputies and the public at large constantly monitor conditions of detention and social protection of inmates in penal establishments.

217. Additional measures are being taken to enhance the defence of inmates' interests that are protected by law, extend humane treatment to them and improve the conditions under which they are being held.

218. At the end of 1999 and during the first half of 2000, staff from the office of the Ombudsman inspected correctional institutions, and parliamentary representatives were able to see the work of those institutions, the observance of inmates' human rights and the conditions under which they were being held.

219. In March 2000, a commission consisting of the Commissioner for Human Rights of the Oliy Majlis, S.S. Rashidova, the director of the National Centre for Human Rights, A.K. Saidov, the Deputy Minister for Internal Affairs, R. Kadyrov, the Commander of the Guards, K. Aliev, and leaders of the Zhokargi Kenes of the Republic of Karakalpakstan, as well as representatives of public organizations, visited penal establishments in Karakalpakstan. The main purpose of the visit was to ascertain the conditions under which inmates were being held and the extent to which human rights were being observed and the requirements of international standards met in the establishment. The commission found that sufficient resources were being allocated by the State to ensure normal conditions of detention.

220. The results of the inspection were considered on 31 March 2000 at an expanded session of the Republican Commission to Uphold Human Rights and Freedoms, which was attended by interested ministers, khokims, public organizations and foundations, and a joint resolution of the Commissioner for Human Rights (Ombudsman) and the Defence and Security Committee of the Oliy Majlis was adopted.

XIV. SAFEGUARDING OF THE RIGHT TO FILE A COMPLAINT AND TO HAVE IT PROMPTLY AND IMPARTIALLY EXAMINED (art. 13)

221. In accordance with the general principles of the administration of justice, the use of torture and illegal treatment is not permitted. Victims of torture may exercise their rights under the following laws: the Criminal Code, the Code of Criminal Procedure, the Code for the Execution of Criminal Penalties, the Citizens' Appeals Act No. 1064-XII of 6 May 1994, the Court Complaints against Decisions and Acts Violating Citizens' Rights and Freedoms Act No. 108-I of 30 August 1995 and the Ombudsman Act No. 392-I of 24 April 1997.

222. Article 3 of the Citizens' Appeals Act prohibits the harassment of citizens and members of their families for defending their rights through an appeal.

223. Article 7 of the Act stipulates:

> "Officials who unlawfully refuse to consider an appeal, fail to adhere to the time limit for considering an appeal, adopt an unwarranted decision contrary to the law or disclose information about a person's private life, or commit other infringements of the law on citizens' appeals, shall incur disciplinary liability under the statutory procedure, where these acts do not carry administrative or criminal liability. Officials who harass a citizen for lodging an appeal with a State body, public association, enterprise, institution or organization, or for any criticism contained in an appeal, or who commit violations of the law on citizens' appeals which cause substantial harm to the interests of the State or citizen's rights protected by law shall incur criminal liability under the law."

224. Article 1 of the Act states:

> "Any citizen is entitled to bring a complaint before a court of law if he considers that his rights and freedoms have been violated by the unlawful actions or decisions of State bodies, enterprises, institutions, organizations, public associations, citizens' self-governing bodies or officials."

Aliens can lodge a complaint with a court under the statutory procedure, unless the international treaties and agreements of the Republic of Uzbekistan provide otherwise.

225. Article 2 of the Act lists the actions or decisions in respect of which complaints may be made to a court as follows:

> "Actions or decisions by State bodies, enterprises, institutions, organizations, public associations, citizen's self-governing bodies or officials against which complaints may be brought in a court of law include collegial or unilateral actions or decisions as a result of which:
>
> A citizen's rights and freedoms have been violated;

A citizen's exercise of his rights and freedoms has been obstructed;

An obligation has been unlawfully placed upon a citizen."

226. Article 4 states: "A citizen is entitled to file a complaint against actions or decisions that violate his rights and freedoms either directly with a court or with the higher authority or official concerned." Such higher authority or official must examine the complaint within a period of one month. If the complaint is dismissed or if the citizen receives no reply within a month from the date of its submission, he is entitled to bring the complaint before a court.

227. The complaint may be submitted by the citizen whose rights and freedoms have been violated or by his representative, or, at the citizen's request, by an authorized representative of a public or workers' association. The complaint may be submitted, at the citizen's discretion, either to a court having jurisdiction over the area in which he lives or to a court having jurisdiction over the area containing the body concerned, or the place of work of the official against whose actions or decisions the complaint is being made.

228. A member of the armed forces is entitled, under the procedure provided for in this article, to complain about actions or decisions of the military administrative bodies or military officials that violate his rights and freedoms to a military court, as well as to a higher-ranking official.

229. The Act defines the actions of the court with regard to a complaint, including the time limit for taking up the complaint, the procedure for its consideration and the types of decision that may be taken on it.

230. Citizens' right of appeal is exercised in accordance with the Citizens' Appeals Act, which in article 1 states that:

"Citizens of the Republic of Uzbekistan, when participating in the conduct of State or public affairs or exercising rights and freedoms granted to them by the Constitution of the Republic of Uzbekistan and other laws, are entitled to:

Lodge an appeal in order to protect their legitimate rights and interests;

Obtain the restoration by the competent State bodies or public associations of the rights which have been violated."

Appeals may be individual or collective and may be made orally or in writing in the form of suggestions, applications or complaints. Appeals by citizens may not be considered under this Act if the national legislation establishes another procedure for their consideration. Stateless persons have the right of appeal under this Act.

231. Despite the existence of laws regarding appeals and the procedure for filing complaints in a court against unlawful actions by officials, there are instances in which some law-enforcement bodies in practice ignore appeals by citizens or treat them in a purely formal manner. Such

instances also occur in the work of middle-ranking and higher judicial bodies. To remedy this situation, the Supreme Court adopted a plenary decision on 27 December 1998 concerning judicial practice when dealing with cases involving the consideration of appeals and complaints by citizens.

232. According to information received from the Ombudsman's office, the plan for implementation of the provisions of the Convention by the office of the Ombudsman, regional representatives and representatives of law-enforcement agencies in 1999 and the first half of 2000 contains a proposal for implementation of the provisions of the Code of Criminal Procedure in three regions of Uzbekistan (the Tashkent and Kashkadarin provinces and the city of Tashkent). It is intended to continue this work for other penal institutions in the remaining areas of Uzbekistan.

233. The office of the Commissioner for Human Rights of the Oliy Majlis (Ombudsman), guided in its work by the rules set out in articles 13 and 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and with the aim of specific and effective settlement of complaints, including complaints on the above-mentioned matters, has expanded the Commission on the Observance of Constitutional Human Rights and Freedoms through the appointment of local representatives of the Ombudsman.

234. An analysis of complaints, broken down by the unlawful acts committed by officials and law-enforcement institutions, shows that the majority of citizens' complaints relate to:

Actions ultra vires;

Violation of legal rules in the execution of official duties;

Misuse of rank in carrying out official functions;

Use of methods prohibited by law (torture, inflicting bodily harm, false or slanderous accusation, etc.);

Infringement of rights and freedoms or their safeguards as set out in the national Constitution and laws;

Harassment for lodging a complaint;

Non-objective court judgements or conduct of an inquiry in violation of the law, as a result of the incompetence of particular court or investigative officials;

Extortion by particular law-enforcement officers.

235. The proceedings brought against citizen K.A. and her nephews A. and A.Sh. on suspicion of killing her husband may be cited by way of example. The body of an unknown man found in a river in the Shakhrisabz district of Kashkadarin province by detectives of the Municipal

Directorate for Internal Affairs (ROVD) and G. Karimov, an investigator working for the district prosecutor, was identified as A.S., who had been declared missing by his brother. At the time, A.S. was in Russia working as a businessman, and information attesting to this was available. But the officials concerned ignored this information, arrested the above-mentioned persons and conducted a biased inquiry for four months.

236. It was only when A.S. returned from Russia in the summer, and appeals had been lodged by the victims with various levels of the Procurator's Office, that justice was restored in the investigating group, under the leadership of the deputy Procurator-General. Proceedings were brought against the deputy procurator and head of department at the provincial procurator's office, the procurator and two departmental procurators at the district office, the investigator working for the district prosecutor and a number of ROVD officers and they were sentenced to various terms of deprivation of liberty.

237. All cases of unlawful deprivation of liberty and violation of the laws of criminal procedure are carefully investigated and guilty parties are subjected to the measures prescribed by law.

XV. RIGHT OF VICTIMS OF TORTURE TO FAIR AND ADEQUATE COMPENSATION (art. 14)

238. While there are some general rules (for example, in article 235 of the Code of Criminal Procedure), under the heading "Compensation for injury caused by detention", the legislation of the Republic of Uzbekistan does not contain any special provision for fair and adequate compensation of victims of acts of torture or violence. Article 235 of the Code of Criminal Procedure states that "injury caused to an individual by unlawful detention shall be compensated in full if a judgement of acquittal is subsequently rendered in respect of that person". At the same time, a number of legislative instruments (Labour Code, Civil Code) provide for compensation of material losses in certain instances. In most cases this involves reinstatement in employment and payment of the average monthly wage or salary for the period of absence from work; redress for any moral injury caused by unlawful acts is considerably less common.

239. In accordance with article 100 of the Code for the Execution of Criminal Penalties, provision is made in penal institutions for compulsory basic education for persons under 30 years of age, and general-education schools have now been established in the Tashkent and Zangiot young offenders' institutions.

240. Vocational and technical colleges have been established in young offender's institutions and reformatories for women, in accordance with article 101 of the Code.

241. Pursuant to articles 171, 172 and 173 of the Code, schools to prepare offenders for their release, at which offenders are rehabilitated in preparation for working and domestic conditions, have been established in these institutions.

XVI. EXCLUSION FROM EVIDENCE OF STATEMENTS MADE UNDER TORTURE (art. 15)

242. Article 88 of the Code of Criminal Procedure, "Protection of the rights and lawful interests of citizens, enterprises, institutions and organizations in the hearing of evidence", states: "acts that are dangerous to the health of, or humiliating and degrading to, individuals shall not be permitted during the hearing of evidence", while article 4 of the Code for the Execution of Criminal Penalties, "Legislation on the execution of criminal penalties and international legal instruments", stipulates that: "laws on the execution of criminal penalties shall correspond to the principles and rules of international law relating to the execution of penalties and the treatment of offenders", and article 6 of that Code, "Principles of legislation on the execution of criminal penalties", that "legislation on the execution of criminal penalties shall be based on the principles of the rule of law and justice, humaneness and the rational use of coercive measures".

243. Supreme Court Plenary Decision No. 2 of 2 May 1997 on court judgements states in paragraph 6 that "any evidence obtained unlawfully shall have no legal validity and cannot form the basis of a judgement". Evidence obtained unlawfully means evidence obtained through the use of unlawful investigative methods, through mental or physical duress or in violation of other rules of criminal procedure (for example, the right to defence). Where evidence is found to have been obtained unlawfully, the court must give the reasons for its decision to exclude it from the body of evidence in the case, specifying in what way the evidence was obtained unlawfully. The court's reasoned decision concerning the inadequacy of the assembled evidence, its lack of evidential value on account of having been obtained unlawfully or the impossibility of dispelling all doubt that a defendant is guilty as charged constitutes grounds for rendering a judgement of acquittal.

244. As stipulated in article 17 of the Code of Criminal Procedure, the court is not entitled to mention in its judgement any information that would humiliate or degrade a person, lead to the dissemination of details of his private life or cause him mental suffering, if that information has no bearing on the evidence in the case.

XVII. PREVENTION OF TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT (art. 16)

245. As the practice in several other countries shows, torture and other inhuman and degrading treatment can be prevented through openness and providing free access to information on the work of the penal system. On 24 August 2000, for the first time in the nation's history, the Ministry of Internal Affairs published details of that work in the open press, in the newspaper "The People's Voice".

246. There are now 47 penal institutions in the Republic of Uzbekistan: 35 penal colonies, one prison and 11 remand centres. Of the 35 colonies, 12 are open colonies, where the inmates are supervised but not guarded, 5 operate under a standard regime, 10 operate under a strict regime, 1 operates under a special regime, 1 is for women, 1 is for convicted persons who were formerly court or law-enforcement officials, 2 are for the detention and clinical treatment of offenders suffering from tuberculosis, 2 are for minors, and 1 is a multi-purpose hospital for the treatment and custody of sick detainees.

247. Over the past three years, three open colonies have been established for detainees who have committed offences of negligence, a specialized colony for convicted persons who were formerly court or law-enforcement officials and a colony with the status of a clinic for the detention and clinical treatment of offenders suffering from tuberculosis have been built and brought into operation, and premises have been equipped for deprivation of the liberty of female aliens and minors.

248. Uzbekistan's penal institutions have a design capacity of 56,300 (including 12,300 in remand centres). On 1 September 2000 the number of persons sentenced to deprivation of liberty stood at 63,900. Of those held in places of detention of liberty, the largest proportion - 36.1 per cent or 23,100 - are serving a sentence for theft. Persons who have committed a serious or particularly serious offence account for 23.7 per cent, or 15,000, of whom 6.2 per cent, or 3,900 are serving sentences for murder, 5.7 per cent, or 3,600, for robbery, 3.3 per cent, or 2,100, for larceny, 2.9 per cent, or 1,900, for inflicting grievous bodily harm, 2.4 per cent, or 1,500, for rape, 1.8 per cent, or 1,100, for gratification of unnatural sexual desires by force and 1.4 per cent, or 900, for smuggling. Of the total number of detainees, 11.7 per cent, or 2,400, were being held for drug-related offences. Economic offences accounted for 6.2 per cent of sentences, or 3,900, and 3.8 per cent of detainees, or 2,400, had been convicted of hooliganism or various other unlawful acts.

249. There are 1,794 foreign citizens in the colonies, of whom 216 are women. They include 1,741 from CIS countries and 53 from other countries.

250. Special mention should be made of the fact that no one is being held in a penal institution for political reasons.

251. The proportion of detainees in Uzbekistan is 0.3 per cent of the population. This is less than half the figure in Russia (0.74), and the United States (0.645), and two thirds that in Kazakhstan (0.56), Belarus (0.505) and Ukraine (0.425).

252. Everything is being done to bring practice in the execution of penalties into line with international rules.

253. On the initiative of the President of the Republic of Uzbekistan, more than 20 articles of the Criminal Code were amended in 1999 to provide for a lighter punishment than deprivation of liberty, and sentences for the offences referred to in some articles have been reduced. The penalties laid down in some articles provide for charges to be dropped if voluntary restitution is made for the harm done. The application of non-custodial penalties, particularly for economic offences, is widespread. In addition, the number of articles in the Criminal Code providing for the death penalty has been reduced to five.

254. On the basis of principles of humaneness and the rules of international law, thousands of convicted persons who have embarked on a path of correction are being amnestied and released. In particular, under the Presidential Decree on Amnesty, more than 25,000 persons sentenced to deprivation of liberty were released and more than 43,000 had their sentences reduced in 1998 and 1999 alone.

255. No disrespectful attitude towards an individual is permissible in a society which has embarked upon the path of democratic advancement. Disrespect and torture and other inhuman or degrading treatment must be completely eradicated, especially in those bodies which are responsible for observance of the law. The Convention clearly indicates that States parties must comply strictly with its provisions.

256. However, society cannot merely settle for what has already been achieved but must press on with the process of democratization, and it must also recognize that for the time being there is still a flawed system in the law-enforcement bodies that allows negative phenomena to persist.

257. Uzbekistan's entry into the world community entails a responsibility to observe fundamental human rights and freedoms. A developed democratic society will be achieved only when each person is respected as an individual and all his rights are fully observed.

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